IN THE HIGH COURT OF JUDICATURE

ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE M.VENKATESWARA REDDY

WRIT PETITION NO : 17809 of 2005

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Dated: 23rd August 2005.

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Between:

Ch.Lakshmi Narayana Raju and another

..... PETITIONERS

AND

The Government dof A.P.rep. by its Prl.Secretary, (Revenue (C.T.I.) Department and others

.....RESPONDENTS

THE HON'BLE SRI JUSTICE J. CHELAMESWAR

AND

THE HON'BLE SRI JUSTICE M. VENKATESWARA REDDY

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W.P.NO.17809 OF 2005

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ORAL ORDER:

(Per the Hon'ble Sri Justice J.Chelameswar)

The writ petition is filed with the prayer as follows:

> "For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue Writ order or direction, more particularly one in the nature of Writ of Mandamus declaring the action of the Andhra Pradesh Administrative Tribunal in dismissing the O.A.No.6092/1995, dt.4-12-2002 and orders issued by the Government thereupon in G.O.Rt.No.2375 Rev. (CT.III) department dated 18-12-2003 & proceeding in R.C.No.1321/99, A3: dated 16-05-2005 issued by the 3rd respondent as illegal arbitrary and unjust, and consequently set aside the proceedings in R.C.No.1321/99, A3: dated 16-05-2005 issued by the 3rd respondent and pass such other order or orders as this Hon'ble court may deems fit and proper under the circumstances of the case."

The petitioners were initially appointed in the Commercial Tax Department of the State of Andhra Pradesh, in the month of January 1976. Their services were regularized by the Proceedings of the 3rd respondent dated 27-10-1977. By the said Proceedings not only the services of the petitioners, but the services of a number of other employees, totaling 76 in number, were regularized with effect from various dates indicted in the said Proceedings as against each of the employees of the department. The services of Respondents No.4 to 11 were also regularized by the same Proceedings with effect from various dates indicated against their names, but

each of their services, were regularized with effect from some date, which is subsequent to the date on which the petitioners' services were regularized.

The abovementioned respondents approached the Tribunal in I.A.No.6092 of 1995, complaining that each one of them were initially appointed in different departments of the State of Andhra Pradesh, but subsequently transferred to the Commercial Tax Department on administrative grounds and therefore, regularization of their services only with effect from the date on which each one of them entered into the Commercial Tax Department, as illegal and on the other hand, the services of each one of them, ought to have been regularized with effect from the initial date of their entry into their original departments concerned.

The Tribunal, in spite of the submissions of the respondents, allowed the abovementioned O.A., however, directing that the cases of the respondents should be considered as prayed for by them in the O.A. after putting on notice all those, who are likely to be affected by assigning an anterior date for regularization of their services.

The State complied with the order of the Tribunal and put the petitioners on notice and the petitioners filed their objections. The objections were overruled and a fresh seniority list is prepared, wherein Respondents No.4 to 11 were assigned the seniority with effect from the original date of their entry into the service of the Government of Andhra Pradesh in the department relevant to each of them.

Challenging the said decision, present writ petition is filed.

In our view, the writ petition is not maintainable in view of the judgment of the Supreme Court in **L.CHANDRA KUMAR v. UNION OF INDIA**. If the petitioners have any grievance regarding fixation of the seniority, they are obligated to go before the Tribunal first, but cannot come to this Court as a Court of first instance.

In the circumstances, the writ petition is dismissed as not maintainable. No costs.

The petitioners are at liberty to approach the Tribunal, if they are so advised, within a period of two weeks from today.

The learned counsel for the petitioners, however, submitted that one of the reasons on which the objections of the petitioners were rejected, is that the

petitioners did not challenge the earlier orders of the Tribunal passed in O.A.No.6092 of 1995 dated 04-12-2002. The petitioners, therefore, apprehend that the same objection would be raised before the Tribunal.

We make it clear that as the petitioners were not parties to the earlier proceedings in O.A.No.6092 of 1995, the fact that they did not challenge the said decision of the Tribunal, in our view, does not make any difference and the Tribunal is bound to consider the objections of the petitioners, if any, regarding the fixation of the seniority.

J.Chelameswar, J

M.Venkateswara Reddy, J

23rd August 2005

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